



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 160 and 164

[Docket No. USCG-2010-0048]

RIN 1625-AB46

Lifesaving Equipment: Production Testing and Harmonization with International Standards

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the interim rule addressing lifesaving equipment to harmonize Coast Guard regulations concerning release mechanisms for lifeboats and rescue boats with recently adopted international standards affecting design, performance, and testing for such lifesaving equipment, and to clarify the requirements concerning grooved drums in launching appliance winches. The Coast Guard seeks comments on this proposal.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2010-0048 using any one of the following methods:

- (1) Federal eRulemaking Portal: <http://www.regulations.gov>.
- (2) Fax: 202-493-2251.
- (3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.
- (4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

Viewing incorporation by reference material: You may inspect the material proposed for incorporation by reference at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-372-1385. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. George Grills, Commercial Regulations and Standards Directorate, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG-ENG-4), Coast Guard; telephone 202-372-1385, email George.G.Grills@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

A. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG- 2010-0048), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You

may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. The Coast Guard recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that the Coast Guard can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and insert “USCG- 2010-0048” in the “Search” box. Click “Search.” Click on “Submit a Comment” in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and insert “USCG-2010-0048” in the “Search” box. Click "Search." Click the “Open Docket Folder” in the “Actions” column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

The Coast Guard has an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

D. Public meeting

The Coast Guard does not plan to hold a public meeting. You may submit a request for one to the docket using one of the methods specified under ADDRESSES. In your request, explain why you believe a public meeting would be beneficial. If the Coast Guard determines that one would aid this rulemaking, the Coast Guard will hold one at a time and place announced by a later notice in the Federal Register.

II. Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
IMO	International Maritime Organization
LSA	Life-saving Appliance
MISLE	Marine Information for Safety and Law Enforcement database
MSC	Maritime Safety Committee of the International Maritime Organization
NPRM	Notice of Proposed Rulemaking
SNPRM	Supplemental Notice of Proposed Rulemaking
SOLAS	International Convention for Safety of Life at Sea, 1974, as amended
§	Section symbol
USCG	United States Coast Guard

III. Regulatory History

On October 11, 2011, the Coast Guard published an interim rule titled, "Lifesaving Equipment: Production Testing and Harmonization With International Standards" (interim rule) in the Federal Register. See 76 FR 62962. As part of that interim rule, which became effective on November 10, 2011, the Coast Guard issued new subparts of 46 CFR part 160, including subpart 160.115 addressing launching appliance winches, and subpart 160.133 addressing release mechanisms for lifeboats and rescue boats, which are approved to the requirements of the International Convention for Safety of Life at Sea, 1974, as amended (SOLAS).

The Coast Guard issued an interim rule because in May 2011, the International Maritime Organization's (IMO) Maritime Safety Committee (MSC) amended its international standards regarding release mechanisms. See 76 FR 62962.

Additionally in the interim rule, the Coast Guard announced plans to publish in a future Federal Register document proposed changes to Coast Guard regulations to implement the IMO amendments regarding performance requirements for lifeboat and rescue boat release mechanisms that the Coast Guard determines appropriate for purposes of harmonization and consistency with international standards, and to finalize the interim rule at the same time the Coast Guard issues any final rule for those proposed changes. 76 FR 62962.

The Coast Guard is issuing this supplemental notice of proposed rulemaking (SNPRM) to address amendments to international standards affecting the design and performance of release mechanisms that were adopted by the IMO, and that will enter into force on January 1, 2013. The IMO amendments to the international standards affect

46 CFR part 160, subpart 160.133. The interim rule removed longstanding separate subparts for release mechanisms (46 CFR 160.033) and lifeboats (46 CFR 160.035) approved strictly for domestic service. 76 FR 62975. Therefore, this SNPRM potentially affects any U.S.-flagged vessel required to carry a lifeboat after the finalization of this proposed rule.

IV. Background

As discussed in the “Basis and Purpose” section of the interim rule, the Coast Guard is charged with ensuring that lifesaving equipment used on vessels subject to inspection by the United States meets specific design, construction, and performance standards, including those found in SOLAS, Chapter III, "Life-saving appliances and arrangements." See 46 U.S.C. 3306; 76 FR 62963. The Coast Guard carries out this charge through the approval of lifesaving equipment per 46 CFR part 2, subpart 2.75. The approval process includes pre-approving lifesaving equipment designs, overseeing prototype construction, witnessing prototype testing, and monitoring production of the equipment for use on U.S. vessels. See 46 CFR part 159. At each phase of the approval process, the Coast Guard sets specific standards to which lifesaving equipment must be built and tested.

The Coast Guard’s specific standards for release mechanisms are found in 46 CFR part 160, subpart 160.133 (Release Mechanisms for Lifeboats and Rescue Boats (SOLAS)). Subpart 160.133 implements current SOLAS requirements for lifeboat release mechanisms by incorporating by reference the IMO standards referenced by Chapter III of SOLAS. The primary IMO standards referenced by Chapter III of SOLAS are the “International Life-saving Appliance Code,” IMO Resolution MSC.48(66), as

amended (hereinafter “IMO LSA Code”), and the “Revised recommendation on testing of life-saving appliances,” IMO Resolution MSC.81(70), as amended (hereinafter “Revised recommendation on testing”). The IMO updates these standards by adopting MSC Resolutions promulgating amendments to these standards.

Subpart 160.133 incorporates by reference the latest published version of the IMO LSA Code and the Revised recommendation on testing. Sections 160.133-5(c)(2) and (c)(3) incorporate by reference the parts of IMO's publication “Life-saving Appliances, 2010 Edition” that include the IMO LSA Code and the Revised recommendation on testing. The “Life-saving Appliances, 2010 Edition” includes all amendments to the IMO LSA Code and Revised recommendation on testing adopted through 2010. These amendments are discussed in the NPRM published in the Federal Register on August 31, 2010, titled “Lifesaving Equipment: Production Testing and Harmonization with International Standards.” See 75 FR 53458.

On May 20, 2011, IMO adopted two new MSC Resolutions further amending the IMO LSA Code and the Revised recommendation on testing: IMO Resolution MSC.320(89), “Adoption of amendments to the International Life-saving Appliance (LSA) Code,” and IMO Resolution MSC.321(89), “Adoption of amendments to the Revised Recommendation on Testing of Life-saving Appliances (Resolution MSC.81(70)), as amended.”

Resolution MSC.320(89) amends the IMO LSA Code and enters into force on January 1, 2013. This Resolution amends the design and performance requirements for release mechanisms by requiring--

- the hook portion to be “stable” such that when the hook is in the closed and reset position and under load from the lifeboat, no forces are transmitted back to the release handle;
- specific components within the system to be made of corrosion-resistant materials without the need for galvanizing;
- that, for moveable hook designs that are not of the “load over center” type (i.e., that are designed to rotate when a load is applied to the hook face), the moveable hook component is kept fully closed by the hook locking parts so that it is capable of holding its safe working load under any operational conditions until the hook locking part is deliberately caused to open by means of the operating mechanism;
- that if a hydrostatic interlock or similar device is provided to indicate that the lifeboat or rescue boat is waterborne, it automatically resets upon lifting the boat from the water;
- multiple actions to perform on-load release, including the deliberate destruction of a “break glass” or similar arrangement;
- operational capability of up to 100 percent of the release hook’s design load under conditions of trim of up to 10 degrees and a list of up to 20 degrees either way;
- release mechanisms of the hook tail and cam type to remain closed and hold their design load through rotation of the cam of up to 45 degrees in either direction, or 45 degrees in one direction if restricted by design, from its locked position; and

- operating links and cables to be waterproof and not have exposed or unprotected areas.

Resolution MSC.321(89) amends the Revised recommendation on testing and enters into force on January 1, 2013. This Resolution specifies revisions to the prototype testing of release mechanisms supporting the amendments to the IMO LSA Code. The revisions to the testing include:

- a demonstration that the moveable hook component, when disconnected from the operating mechanism, remains closed while under a load equivalent to the B-weight of a lifeboat (see “Full load” definition in 46 CFR part 160, subpart 160.135-3) at a speed of 5 knots.
- a demonstration that a lifeboat release mechanism loaded at 100 percent of the design load of the release hook will successfully release under load 50 consecutive times, as well as simultaneously in the case of twin-fall systems;
- a demonstration that the moveable hook component, when disconnected from the operating mechanism, remains closed when tested 10 times with a cyclical loading from no load to 110 percent of the design load, or 1 percent to 110 percent of design load for load over center designs, at 10 seconds per cycle;
- a demonstration that the actuating force under the design load of the release mechanism is between 100 N and 300 N (22.5 lbf and 67.5 lbf); and
- prototype testing of a second unit, repeating the actuation force test before undergoing a tensile test at six times the design safe working load.

The Coast Guard proposes to revise subpart 160.133 to incorporate by reference IMO Resolutions MSC.320(89) and MSC.321(89). Beyond the obligations to adopt the changes to the IMO LSA Code and Revised recommendation on testing as a signatory to the SOLAS convention, the Coast Guard desires to incorporate by reference the amendments in IMO Resolutions MSC.320(89) and MSC.321(89) because they provide a higher standard of safety and performance than that of the existing requirements incorporated by reference in § 160.133-5. Further, for manufacturers, harmonization with current international standards will facilitate marketing of their products internationally.

The United States actively participated in the negotiations that led to the development of these IMO standards. The Coast Guard considers these IMO standards to represent the best available standards for the design and performance of release mechanisms and to be appropriate for lifeboats and rescue boats subject to inspection by the United States. In order to facilitate international commerce with other contracting governments to SOLAS that follow IMO standards, and to achieve the benefits of the increased safety of adhering to these IMO standards, the Coast Guard has, pursuant to [46 U.S.C. 3306](#) and [46 CFR 159.005-7\(c\)](#), deemed compliance by U.S.-flagged ships with the IMO standards as compliance with Coast Guard domestic regulations.

The effect of this proposed change would be that all davit-launched lifeboats for Coast Guard approval under subpart 160.135, and SOLAS rescue boats and fast rescue boats for Coast Guard approval under subpart 160.156 (other than those fitted with automatic release hooks under approval series 160.170), would be required to have a release mechanism approved under this revised subpart 160.133. See § 160.135-7(b)(17)

(“Each release mechanism must be identified at the application for approval of the prototype lifeboat and must be approved under 46 CFR part 160, subpart 160.133”) and 160.156-7(b)(18) (“Each release mechanism fitted to a rescue boat, including a fast rescue boat, must be identified at the application for approval of the prototype rescue boat and must be approved under subparts 160.133 or 160.170 of this part.”). Davit-launched lifeboats and SOLAS rescue boats and fast rescue boats already installed prior to the implementation of this SNPRM will not be affected.

Beyond the new IMO Resolutions discussed above, the Coast Guard is also proposing amendments to § 160.115 to clarify the winch drum design requirements, and editorial amendments to correct non-substantive errors in 46 CFR part 160, subparts 160.133, 160.135, and 160.156.

V. Discussion of Proposed Rule

Revision to 46 CFR part 160, subpart 160.115

The Coast Guard proposes to replace 46 CFR 160.115-7(b)(5)(i) with text that requires winch drums to either be grooved or otherwise designed to wind the falls evenly on and off each drum. The Coast Guard is proposing to make this change because winch drum designs are increasingly being shown to be effective at winding the falls on and off the drum without grooves, (i.e., winch drums with a smooth drum design instead of the traditional grooved drum design). The proposed change in § 160.115-7(b)(5)(i) does not modify the standard of design or performance for winch drums. Rather, the proposed change is intended to clarify the current regulation text which requires drums to be grooved “unless otherwise approved by the Commandant.” The primary standard by which the Coast Guard evaluates the design and performance of launching appliances,

IMO LSA Code Chapter VI, “Launching and embarkation appliances” (referenced in § 160.115–7(a)(1)), does not require drums to be grooved, but requires the falls to wind evenly on and off the drum(s).

For many years, the Coast Guard has approved winches with smooth drums under approval series 160.115 as providing equivalent performance to grooved drums. However, there remains some confusion on the interpretation of existing § 160.115-7(b)(5)(i) with respect to the approval of winches without grooved drums. The Coast Guard believes this proposed change would reduce confusion about the Coast Guard’s criteria for acceptance of non-grooved drums in launching appliance winches by providing manufacturers with clearer language regarding the intended design performance.

The Coast Guard proposes to add a new paragraph (4) to § 160.115-13(d), which would support the proposed revision to 46 CFR 160.115-7(b)(5)(i) by ensuring that any non-grooved drum design is still shown at the prototype testing phase to be as effective at evenly winding the falls on and off the drum surface as a grooved drum.

Revisions to 46 CFR part 160, subpart 160.133

The Coast Guard proposes to amend the title of subpart 160.133 by removing “(SOLAS).” As stated in the interim rule published on October 11, 2011, the Coast Guard removed the standard for domestic release mechanisms under 46 CFR 160.033 and created one standard for release mechanisms under 160.133. Therefore the use of “SOLAS” in the title is unnecessary and may be misleading when installing release mechanisms approved under subpart 160.133 in lifeboats serving U.S. vessels only on domestic routes. Changing the title would make it consistent with other subparts affected

by the interim rule. The Coast Guard also proposes changing the title of subpart 160.135, which will be discussed in the section below titled, “Revisions to 46 CFR part 160, subpart 160.135, and subpart 160.156.”

The Coast Guard proposes to correct the misspelling of “life-saving” in the title of the “Revised recommendation on testing of life-saving appliances” in § 160.133-5(c)(3) which was incorrectly spelled as “live-saving”.

The Coast Guard proposes to revise § 160.133-5(c) to incorporate by reference IMO Resolutions MSC.320(89) and MSC.321(89) in new paragraphs (c)(6) and (c)(7), respectively. Because of the incorporation by reference of these Resolutions in § 160.133-5(c), references to the IMO LSA Code in §§ 160.133-3, 160.133-7(a)(1), 160.133-7(b)(8), and 160.133-7(b)(9) would be revised with "as amended by Resolution MSC.320(89)," and references to the Revised recommendation on testing in §§ 160.133-7(a)(2) and 160.133-13(d)(2) would be revised with “as amended by IMO Resolution MSC.321(89).” Revising these incorporations by reference would affect the provisions in §§ 160.133-7 and 160.133-13, which refer to the Revised recommendation on testing, as discussed in part IV above.

Because IMO Resolution MSC.320(89) requires “all components of the hook unit, release handle unit, control cables or mechanical operating links and the fixed structural connections in a lifeboat [to] be of material corrosion resistant in the marine environment without the need for coatings or galvanizing,” the current ASTM standard for structural carbon steel incorporated by reference in § 160.133-5 is a conflicting standard. This standard would no longer be appropriate because these steels require coatings or galvanizing to be corrosion resistant. Therefore, the Coast Guard proposes to remove §

160.133-5(b)(1), incorporating by reference ASTM A 36/A 36M-08, “Standard Specification for Carbon Structural Steel,” and to remove the accompanying standard for galvanizing in § 160.133-5(b)(5), incorporating by reference ASTM A 653/A 653M-08, “Standard Specification for Steel Sheet, Zinc-Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process.” Because § 160.133-5 already contains three standards for stainless steel that meet the non-galvanized, corrosion-resistant material requirement of IMO Resolution MSC.320(89), the Coast Guard further proposes to retain and renumber § 160.133-5(b)(2), (3), and (4), incorporating by reference the three ASTM stainless-steel standards. The Coast Guard seeks public comment on other corrosion-resistant material standards for possible incorporation by reference in § 160.133-5(b).

The Coast Guard proposes to amend § 160.133-7(b)(3) to remove reference to ASTM A36 and ASTM A653, as these standards would no longer apply as described above. As proposed, the references to the ASTM standards would be replaced with language requiring each major structural component of each release mechanism to be constructed of corrosion-resistant steel that meets the standards for type 302 stainless steel in ASTM A 276, ASTM A 313, or ASTM A 314 (incorporated by reference, see § 160.133-5 of this subpart). The proposed language would also permit other corrosion-resistant materials to be used if accepted by the Commandant as having equivalent or superior corrosion-resistant characteristics without the need for coatings or galvanizing.

The Coast Guard proposes to remove § 160.133-7(b)(15), which requires each release mechanism to have mechanical protection against accidental or premature release that can only be engaged when the release mechanism is properly and completely reset.

The Coast Guard recognized that the requirements in this paragraph were already addressed in the existing IMO LSA Code (incorporated by reference in §160.133-5(c)(2)), paragraph 4.4.7.6.4, related to lifeboat fittings, and are not affected by IMO Resolution MSC.320(89) that amends the IMO LSA Code. Therefore, removing existing § 160.133-7(b)(15) would eliminate a redundancy with the incorporation by reference of the IMO LSA Code.

The Coast Guard proposes to remove § 160.133-13(d)(2)(iii), which contains a stipulation regarding galvanizing, because galvanizing is no longer an acceptable form of metal treatment for corrosion resistance under IMO Resolution MSC.320(89) and its removal is consistent with the proposed removal of ASTM A 653 in §§ 160.133-5 and 160.133-7 discussed above. The Coast Guard would re-number paragraphs consistent with the removal of these items. The Coast Guard proposes to remove the last two sentences in paragraph (e) of § 160.133-15, consistent with the proposed removal of ASTM A 653.

The Coast Guard proposes to amend § 160.133-15(e) by removing the last two sentences, which require each approved release mechanism to be constructed with non-corrosion-resistant steel that meets the coating mass and bend tests requirement specified under ASTM A 653 after galvanizing or other anti-corrosion treatment has been applied. This amendment is consistent with the changes to § 160.133-5, § 160.133-7 and § 160.133-13 discussed above as related to the use of galvanized steel.

Revisions to 46 CFR part 160, subpart 160.135, and subpart 160.156

The Coast Guard proposes to amend the title of §160.135 by removing “(SOLAS).” As stated in the interim rule published on October 11, 2011, the Coast

Guard removed the standard for lifeboats for merchant vessels under 46 CFR 160.035 and created one standard for lifeboats under 160.135. Therefore the use of “SOLAS” in the title is unnecessary and may be misleading when installing lifeboats approved under § 160.135 on U.S. vessels only on domestic routes. Regardless of domestic or international service, U.S. vessels must carry lifeboats approved under approval series 160.135. See 46 CFR § 199.201 and § 199.261. Changing the title to subpart 160.135 will make it consistent with the title of other subparts affected by the interim rule. The Coast Guard does not propose to remove “SOLAS” from the title of 46 CFR 160.156 for rescue boats and fast rescue boats because the Coast Guard retained the domestic, locally approved rescue boat standard in 46 CFR 160.056.

The Coast Guard proposes to amend § 160.135-15(e)(2) and § 160.156-15(e)(2) to include the reference to the Revised recommendation on testing part 2, paragraph 5.3 and to remove the redundant statement, “At a minimum, each [lifeboat/rescue boat] must be operated for 2 hours during which all [lifeboat/rescue boat] systems must be exercised.” Under existing § 160.135-15(e)(2) and § 160.156-15(e)(2), the Coast Guard expected all of the production tests of IMO Revised recommendation on testing part 2, paragraph 5.3, as applicable to the type of boat, to be performed on all approved lifeboats and rescue boats. By amending § 160.135-15(e)(2) and § 160.156-15(e)(2), the Coast Guard will make this requirement clear. The requirement to operate each production lifeboat and rescue boat for 2 hours is already included in the IMO Revised recommendation on testing part 2 (incorporated by reference in §160.135-5 and §160.156-5), paragraph 5.3, and thus the Coast Guard proposes removal of this sentence from § 160.135-15(e)(2) and § 160.156-15(e)(2). Because of the existing incorporation

by reference of the Revised recommendation on testing in § 160.135-15 and § 160.156-15, these sections would be added as approved incorporations by reference in § 160.135-5(d)(4) and § 160.156-5(d)(4), respectively.

The Coast Guard also proposes to amend § 160.135-15(d), which sets forth independent laboratory responsibilities, by amending the reference to paragraph (e)(2) so that it references all of paragraph (e). This amendment would correct a typographical error; § 160.135-15(d) was intended to have the same language as 46 CFR part 160, subpart 160.156-15(d), which correctly references paragraph (e) in its entirety. Without this correction, it may be misinterpreted that the independent laboratory does not have responsibility for witnessing the lifeboat in-process tests and inspections outlined in § 160.135-15(e)(1).

The Coast Guard proposes to amend § 160.135-15(e)(1)(iv) to correct the typographical error referencing § 160.135-13(c)(2)(i)(B), which does not exist, and replace it with the correct reference, which is § 160.135-11(c)(2)(i)(B).

Additionally, the Coast Guard proposes to correct typographical errors in § 160.156-7(b)(13), § 156-9(b)(22)(iv), and § 156-9(d)(2) by replacing the word “lifeboat” with the correct term, “rescue boat,” because § 160.156 applies to rescue boats only. The Coast Guard also proposes to amend § 160.156-15(e)(1) by removing the phrase “In accordance with the interval prescribed in paragraph (d)(1) of this section.” Part of the Coast Guard’s original intent when drafting this rule was consistency of language throughout the affected subparts where possible. This phrase does not appear in any other subpart affected by the interim rule and inadvertently remained in 160.156-15(e)(1) when the interim rule was published. Removal of this phrase will also eliminate the

typographical error in § 160.156-15(e)(1) by removing reference to § 160.156-15(d)(1), which does not exist.

Finally, the Coast Guard proposes to remove the cite to 49 CFR 1.46 in the authorities section of part 160 and part 164 because that authority applies to the Department of Transportation, under which the Coast Guard no longer operates. The Coast Guard currently operates under the authority of the Department of Homeland Security.

Proposed impacts to Certificates of Approval.

If these proposed changes to incorporate by reference IMO Resolutions MSC.320(89) and MSC.321(89) are finalized, any manufacturer of SOLAS release mechanisms who wants to continue to manufacture such release mechanisms under a Certificate of Approval issued under existing subpart 160.133 would have to provide the Coast Guard with an application for pre-approval review in accordance with § 160.133-23 (Procedure for approval of design, material, or construction change). The application would have to indicate how the existing release mechanism, or a new or revised design, meets the requirements of proposed § 160.133-7 incorporating by reference the amendments to the IMO LSA Code from IMO Resolution MSC.320(89). If the information submitted in accordance with § 160.133-23, for changes to existing designs, or § 160.133-9, for new designs, is satisfactory to the Commandant, the manufacturer would be permitted to proceed with fabrication of the prototype release mechanism and the approval inspections and tests required under proposed § 160.133-13 incorporating by reference the amendments to the Revised recommendation on testing from IMO Resolution MSC.321(89). The Coast Guard would document compliance with

Resolutions MSC.320(89) and MSC.321(89) by means of amended Certificates of Approval under subpart 160.133.

Similarly, if these proposed changes are finalized, any manufacturer of davit-launched lifeboats and those manufacturers of SOLAS rescue boats or fast rescue boats with installed release mechanisms approved under existing subpart 160.133 who want to continue manufacturing such boats under a Certificate of Approval issued under subpart 160.135 or 160.156, respectively, would have to provide the Coast Guard with an application for pre-approval review in accordance with § 160.135-23 or § 160.156-23 (Procedure for approval of design, material, or construction change). This application would have to indicate the proposed installation of a release mechanism meeting the requirements of the proposed § 160.133-7 incorporating by reference the amendments to the IMO LSA Code from IMO Resolution MSC.320(89). If the information submitted in accordance with § 160.135-23 or § 160.156-23 is satisfactory to the Commandant, the manufacturer would be permitted to proceed with fabrication of the prototype lifeboat or rescue boat, and would be notified of the extent of any prototype testing needed for reissuance of the Certificate of Approval under 160.135 or 160.156. The Coast Guard would document compliance with Resolutions MSC.320(89) and MSC.321(89) by means of amended Certificates of Approval under subparts 160.135 and 160.156 indicating installation of a release mechanism demonstrated to meet Resolutions MSC.320(89) and MSC.321(89).

VI. Incorporation by Reference

Material proposed for incorporation by reference appears in proposed 46 CFR 160.133-5(c)(6) and (c)(7). You may inspect this material at U.S. Coast Guard

Headquarters where indicated under ADDRESSES. Copies of the material are available from the sources listed in paragraph (A) of that section.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

VII. Regulatory Analyses

The Coast Guard developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below the Coast Guard summarizes its analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This SNPRM has not been designated a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the SNPRM has not been reviewed by the Office of Management and Budget. A draft regulatory assessment follows:

The proposed rule would amend the existing regulations for release mechanisms for lifeboats and rescue boats in order to harmonize Coast Guard regulatory requirements with the international standards established by the IMO. The proposed rule specifically requires U.S. standards regarding design, construction, performance, and testing of

release mechanisms to be harmonized to the IMO's standards. This harmonization is required--

- For the U.S. to comply with its treaty obligations as a contracting government to SOLAS by harmonizing Coast Guard requirements for release mechanisms for lifeboats and rescue boats with the international standards established by the IMO LSA Code; and
- To clarify requirements and remove inconsistencies between the requirements for SOLAS compliance and the sections of 46 CFR regulating release mechanisms on lifeboats and rescue boats.

In addition, the proposed rule would add wording to 46 CFR 160.115-7(b)(5)(i) that would clarify the Coast Guard's acceptance of non-grooved winch drums as an alternative to grooved drums on launching appliance winches. Currently that section states, "A winch must have grooved drums unless otherwise approved by the Commandant." The section would be reworded to state, "Winch drums must either be grooved or otherwise designed to wind the falls evenly on and off each drum." As such, this change clarifies requirements by specifying criteria used by the Coast Guard in historic approvals directly in the regulations, thereby reducing paperwork and regulatory uncertainty. The proposed change in §160.115-7(b)(5)(i) would not modify the standard of design, performance, or testing for winch drums. Approval requests for non-grooved winch drums are a component of the application process for all winch drums (grooved and non-grooved), along with many other lifesaving appliances (i.e., davits, lifeboats, etc.), that must be approved by the Coast Guard. The Coast Guard estimates that any time saved associated with this clarification to the winch drum approvals would be

minimal. In addition, there are already manufacturers of non-grooved or smooth winch drums. For these reasons, there are no cost implications for industry from the rewording of §160.115-7(b)(5)(i). The purpose of the modification of the wording in §160.115-7(b)(5)(i) is to clarify the Coast Guard's criteria for acceptance of non-grooved or smooth winch drums as an alternative to grooved drums.

Table 1 provides a summary of the proposed rule's applicability, affected population, costs, and benefits. Each of these factors is discussed in greater depth in the sections following the table.

Table 1: Summary of the Impacts of the Proposed Rule

<u>Category</u>	<u>Summary</u>
Applicability	U.S. manufacturers of release mechanisms for lifeboats and rescue boats, U.S. manufacturers of non-grooved or smooth winch drums, and U.S.-flagged vessels required by the Coast Guard to carry lifeboats and rescue boats
Affected Population	One U.S. manufacturer of release mechanisms, five U.S. manufacturers of non-grooved or smooth winch drums, 102 non-SOLAS-certified vessels, 289 SOLAS-certified vessels.
Costs	None
Quantified Benefits	None
Qualitative Benefits	<p>Benefits Associated with Harmonizing Standards:</p> <ul style="list-style-type: none"> • Fulfilling U.S. treaty obligations to the IMO; • USCG and vessel owners and operators would face less uncertainty and more efficient USCG inspections; • Manufacturers and users of non-grooved or smooth winch drums will face less uncertainty regarding the Coast Guard criteria for approval of non-grooved or smooth winch drums.

Affected Population and Cost Impacts

The proposed rule would potentially affect three groups. The first consists of U.S. manufacturers of release mechanisms, the second consists of vessels that are required to be equipped with lifeboats or rescue boats, and the third consists of U.S. manufacturers of non-grooved or smooth winch drums.

There is currently only one U.S. manufacturer of release mechanisms for lifeboats and rescue boats.¹ This manufacturer is, however, in the process of phasing out production of the release mechanisms manufactured from galvanized steel or its

¹ Manufacturers of release mechanisms are currently required to test their mechanisms and file the results with the Coast Guard. Coast Guard records indicate that there is only one U.S.-based manufacturer of these mechanisms.

equivalent (as required under current regulations)² before January 1, 2013. This manufacturer, which is also the only known manufacturer of galvanized steel mechanisms for lifeboats and rescue boats in the U.S., will be manufacturing only stainless-steel release mechanisms, manufactured from corrosion-resistant materials and without the need for galvanizing (or its equivalent)³, and complying with the latest IMO requirements, before that date. The manufacturer is planning this phase-out because it expects the market for galvanized steel mechanisms approved to the current requirements to disappear.⁴ Because the manufacturer's phase-out will occur independently of whether the proposed rule is implemented, the manufacturer would experience no additional cost impact due to this proposed rule. If the proposed rule is implemented, the manufacturer, by the time of the proposed rule's implementation, will have already incurred the cost of the switchover from the galvanized steel mechanisms to those manufactured with

² The Coast Guard regulation currently in place does not require the use of galvanized steel, per se, but permits a regulatory equivalent to galvanized steel that does not necessarily have to be manufactured of galvanized steel. The current §160.133-7(b)(3), the section of the regulation dealing with the "design, construction, and performance of release mechanisms" describes the regulatory equivalent as follows: "Each major structural component of each release mechanism must be constructed of steel. Other materials may be used if accepted by the Commandant as equivalent or superior. Sheet steel and plate must be low-carbon, commercial quality, either corrosion resistant or galvanized as per ASTM A 653 (incorporated by reference, see §160.133-5 of this subpart), coating designation G115. Structural steel plates and shapes must be carbon steel as per ASTM A 36 (incorporated by reference, see §160.133-5 of this subpart). All steel products, except corrosion-resistant steel, must be galvanized to provide high-quality zinc coatings suitable for the intended service life in a marine environment. Each fabricated part must be galvanized after fabrication. Corrosion-resistant steel must be a type 302 stainless steel per ASTM A 276, ASTM A 313 or ASTM A 314 (incorporated by reference, see §160.133-5 of this subpart) or another corrosion-resistant stainless steel of equal or superior corrosion-resistant characteristics". In this regulatory analysis, the term "galvanized steel release mechanisms" will also refer to those that may not necessarily be manufactured of galvanized steel but are the equivalent thereof as defined above.

³ The proposed regulation does not require only the use of stainless steel, per se, but also permits a regulatory equivalent to such a stainless steel mechanism that does not necessarily have to be manufactured of stainless steel. §167.133-7(b)(3), the section of the regulation dealing with the "design, construction, and performance of release mechanisms", states: "Each major structural component of each release mechanism must be constructed of steel. Corrosion-resistant steel must be a type 302 stainless steel per ASTM A 276, ASTM A 313 or ASTM A 314 (incorporated by reference, see § 160.133-5 of this subpart). Other corrosion-resistant materials may be used if accepted by the Commandant as having equivalent or superior corrosion-resistant characteristics." In this regulatory analysis, the term "stainless steel" release mechanisms will also refer to those that may not necessarily be manufactured of stainless steel but are the equivalent thereof as defined in the proposed regulation.

⁴ Information provided to the Coast Guard by telephone, June 2012.

corrosion-resistant material without the need for galvanizing. The decision will have been made based on expected changes in market conditions and will also be in compliance with the new IMO requirements.

There are a total of five potential manufacturers of non-grooved or smooth winch drums.⁵ As stated previously, the proposed regulation would not modify production, design, or testing standards associated with these winch drums, nor would it change reporting and recordkeeping requirements surrounding their sale or use. Therefore, the Coast Guard does not expect there would be any cost or collection of information implications to U.S. manufacturers.

Based on data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database, the Coast Guard estimates the total number of vessels affected by the proposed rule to be 391, of which 289⁶ are SOLAS certified (hereinafter referred to as SOLAS vessels), and 102 are non-SOLAS⁷. This proposed rule would require these vessels to comply with new IMO requirements and use release mechanisms made from corrosion-resistant materials without the need for galvanizing (or regulatory equivalent), instead of a galvanized steel release mechanism (or regulatory equivalent) for any future replacements of on-load release mechanisms installed in existing life or rescue boats. Release mechanisms currently in place would not need to be replaced except in two limited circumstances. These are:

- (1) Accidents that result in the damage of the mechanisms themselves or accidents

⁵ Estimated based on data provided by manufacturers of winch drums to the U.S. Coast Guard for the required approval of their winch drums. This data was found in the U.S. Coast Guard's Maritime Information Exchange database under the equipment approved for §160.115 (winch drums). In this database the Coast Guard does not break out approvals given for winch drums by grooved and non-grooved or smooth construction. The data is for all winch drums. Hence, it is a maximum potential number of manufacturers of all winch drum (both grooved and non-grooved) manufacturers.

⁶ Data source: Marine Information for Safety and Law Enforcement (MISLE) system.

⁷ Id.

that damage lifeboats and rescue boats seriously enough to require replacement.⁸ A search was conducted of the MISLE database system for such accidents from 2003 through 2011. Based on accidents found during this period, six release mechanisms were estimated to need replacement on SOLAS vessels and six on non-SOLAS vessels. This yields an average of less than one release mechanism needing replacement per annum. In all of these accidents, there was only one accident that resulted in injuries, and these injuries were slight.⁹

- (2) Release mechanisms may need to be replaced due to their deterioration from normal wear and tear. However, both private sector and Coast Guard subject matter experts have stated that the lifespans of both galvanized and stainless-steel mechanisms generally exceed the lifespan of the lifeboats and rescue boats on which they are carried. Therefore, the Coast Guard does not expect any replacements resulting from deterioration or normal wear and tear.¹⁰

Lifeboats and rescue boats installed on or after the implementation of the final rule by in-scope vessel owners and operators would need to meet the requirements in IMO resolutions MSC.320(89) and MSC.321(89) in order to obtain SOLAS certification. Therefore, the proposed rule would not have any additional cost impact to this class of vessels. The non-SOLAS vessels would have to upgrade to the non-galvanized, corrosion-resistant mechanisms compliant with the new requirements whenever they need to replace any mechanisms in the future for either of the reasons cited above, or for

⁸ New lifeboats and rescue boats are equipped with new release mechanisms as standard equipment. This was the consensus of the Coast Guard and private sector subject matter experts.

⁹ The four were sent to the hospital for examinations but all four went back to work the same day.

¹⁰ It should be noted that depreciation and normal wear and tear do not include accidents.

newly constructed lifeboats and rescue boats.

If release mechanisms meeting both the current and the new requirements were available, the Coast Guard assumes vessel owners and operators would purchase the less-expensive of the two, those meeting the current requirements. Release mechanisms approved to the current requirements (such as those made of galvanized steel) were found to be \$1,500 less-expensive, per unit, than those meeting the new requirements (corrosion-resistant mechanisms).¹¹ As stated above, however, the one supplier of galvanized steel on-load release mechanisms is expected to stop manufacturing them before the proposed rule would take effect on January 1, 2013. Foreign entities that have manufactured these mechanisms have also, based on our research, discontinued manufacturing them.¹² Therefore, the galvanized steel mechanisms (or their equivalent) will no longer be available for purchase. Only the non-galvanized, corrosion-resistant mechanisms that are in compliance with the IMO requirements will be available. The single U.S. manufacturer is phasing out the galvanized steel mechanisms irrespective of whether the proposed rule is enacted. The single U.S. manufacturer is planning this phase-out because it no longer sees a future market for the galvanized steel mechanisms.¹³ As a result, consumers will be able to purchase only the corrosion-resistant mechanisms.

Benefits

The proposed rule would amend the existing regulations for release mechanisms

¹¹ This same cost differential was obtained from two separate and independent industry sources. One source, as of March 2012, is producing both the stainless steel and galvanized steel mechanisms while the second is not currently producing both mechanisms, but cited a price difference that existed when it produced both.

¹² Based on telephone discussions with numerous distributors and manufacturers of release mechanisms in the U.S.

¹³ Information supplied by U.S. manufacturer.

for lifeboats and rescue boats in order to harmonize Coast Guard regulatory requirements with the international standards established by the IMO. The harmonization specifically requires U.S. standards regarding design, construction, performance, and testing of release mechanisms to be harmonized to the IMO's standards.

Benefits from the harmonization of the Coast Guard regulatory requirements to the IMO standards include the following:

- 1) Fulfilling U.S. treaty obligations to the IMO;
- 2) The Coast Guard and vessel owners and operators would face less uncertainty and more efficient Coast Guard inspections during vessel inspections because only one type of release mechanism would have to be inspected as opposed to two.
- 3) The inclusion of performance criteria for approval of non-grooved or smooth winch drums to the language contained in §160.115-7(b)(5)(i), and the addition of proposed new §160.155-13(d)(4), reduces any uncertainty to U.S.-based manufacturers and users of such winch drums. If the proposed regulation is finalized, it will be clear that such products, when approved by the Coast Guard, will be equivalent to grooved winch drums in terms of performance.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard has considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000.

There are three industries that may potentially face a direct cost resulting from the proposed rule. The first industry consists of the single U.S. manufacturer of release mechanisms. The second industry consists of the five manufacturers of winch drums. The third industry consists of owners and operators of vessels equipped with in-scope lifeboats and rescue boats. Based on data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database, the Coast Guard estimates the total number of vessels affected by the proposed rule to be 391, of which 289¹⁴ are SOLAS certified and 102 are non-SOLAS¹⁵. The Coast Guard has determined that a significant number of small entities in these three industries will not be substantially impacted and the explanation for this determination appears in the paragraphs that follow.

With respect to the single U.S. manufacturer of release mechanisms, the Coast Guard does not expect that there would be any cost impact because, as stated previously, prior to January 1, 2013, the only U.S. manufacturer of the galvanized steel mechanisms is planning to discontinue manufacturing them.¹⁶ Based on our research (as of March 2012), there are no manufacturers of galvanized steel release mechanisms (or their equivalent) outside of the U.S. Therefore, the galvanized steel mechanisms (or their equivalent) will no longer be available for purchase. Only the non-galvanized, corrosion-resistant mechanisms that are in compliance with the IMO requirements will be available. The single U.S. manufacturer is phasing out the galvanized steel mechanisms irrespective of whether the proposed rule is enacted. The single U.S. manufacturer is planning this phase-out because it no longer sees a future market for the galvanized steel

¹⁴ Data source: Marine Information for Safety and Law Enforcement (MISLE) system.

¹⁵ Id.

¹⁶ Based on telephone conversation with the manufacturer held in June 2012.

mechanisms.¹⁷

With respect to the five U.S. manufacturers of winch drums, as stated previously, the proposed regulation will not modify the requirements regarding production, design, or testing standards for non-grooved and smooth winch drums. The proposed regulation will also not impose further reporting burdens on manufacturers. This is because there is no specific application, per se, regarding non-grooved and smooth drums that must be sent to the Coast Guard and processed by the Coast Guard. Approval requests for non-grooved winch drums are a component of the application process for all winch drums (grooved and non-grooved), along with many other lifesaving appliances (i.e., davits, lifeboats, etc.), that must be approved by the Coast Guard.

With respect to the in-scope owners and operators of vessels, the marginal additional cost stemming from the requirements to fulfill the proposed rule are expected to be minimal. This is because, as stated previously, regardless of whether or not the proposed rule is implemented (i.e., independent thereof), prior to the implementation of the proposed rule the cheaper galvanized steel release mechanisms will no longer be available in the market place. The single U.S. manufacturer will no longer be manufacturing galvanized steel release mechanisms. Thus vessel owners will only be able to purchase stainless steel release mechanisms.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address

¹⁷ Information supplied by U.S. manufacturer.

under ADDRESSES. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. George Grills, Commercial Regulations and Standards Directorate, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG-ENG-4), Coast Guard; telephone 202-372-13851385, or email George.G.Grills@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) nor would it adjust an existing

collection of information.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power among the various levels of government. The Coast Guard has analyzed this proposed rule under that order and has determined that it does not have implications for federalism. A summary of our analysis follows.

The U.S. Supreme Court has long recognized the field preemptive impact of the Federal regulatory regime for inspected vessels. *See, e.g., Kelly v. Washington ex rel Foss*, 302 U.S. 1 (1937) and the consolidated cases of *United States v. Locke and Intertanko v. Locke*, 529 U.S. 89, 113-116 (2000). Therefore, the Coast Guard's view is that regulations issued under the authority of 46 U.S.C. 3306 in the areas of design, construction, alteration, repair, operation, superstructures, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, electric installations, accommodations for passengers and crew, sailing school instructors, sailing school students, lifesaving equipment and its use, firefighting equipment, its use and precautionary measures to guard against fire, inspections and tests related to these areas, and the use of vessel stores and other supplies of a dangerous nature have preemptive effect over State regulation in these fields, regardless of whether the Coast Guard has issued regulations on the subject, and regardless of the existence of conflict between the state and Coast Guard regulation.

While it is well settled that states may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, as these categories are within a field foreclosed from regulation by the states (see U.S. v. Locke, above), the Coast Guard recognizes the key role State and local governments may have in making regulatory determinations. Additionally, Sections 4 and 6 of Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard will provide elected officials of affected state and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process. Therefore, the Coast Guard invites affected State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to the docket using one of the methods specified under ADDRESSES. In accordance with Executive Order 13132, the Coast Guard will provide a federalism impact statement to document (1) the extent of the Coast Guard's consultation with State and local officials that submit comments to this proposed rule, (2) a summary of the nature of any concerns raised by State or local governments and the Coast Guard's position thereon, and (3) a statement of the extent to which the concerns of State and local officials have been met.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted

for inflation) or more in any 1 year. Although this proposed rule would not result in such an expenditure, the Coast Guard does discuss the effects of this rule elsewhere in the preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

The Coast Guard has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Coast Guard has determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule uses technical standards other than voluntary consensus standards:

- International Life-Saving Appliance Code, (IMO Resolution MSC.48(66)), as amended by IMO Resolution MSC.320(89);
- IMO Resolution MSC.81(70), Revised recommendation on testing of life-saving appliances, as amended by IMO Resolution MSC.321(89).

The proposed sections that reference these standards and the locations where these standards are available are listed in 46 CFR 160.133-5. They are used because we did not find voluntary consensus standards that are applicable to this rule. If you are

aware of voluntary consensus standards that might apply, please identify them by sending a comment to the docket using one of the methods under ADDRESSES. In your comment, please explain why you think the standards might apply.

If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply but are not listed, please send a comment to the docket using one of the methods under ADDRESSES. In your comment, please explain why you disagree with the Coast Guard's analysis and/or identify voluntary consensus standards not listed that might apply.

M. Coast Guard Authorization Act Sec. 608 (46 U.S.C. 2118(a))

Section 608 of the Coast Guard Authorization Act of 2010 (Pub. L. 111-281) adds new section 2118 to 46 U.S.C. Subtitle II (Vessels and Seamen), Chapter 21 (General). New section 2118(a) sets forth requirements for standards established for approved equipment required on vessels subject to 46 U.S.C. Subtitle II (Vessels and Seamen), Part B (Inspection and Regulation of Vessels). Those standards must be “(1) based on performance using the best available technology that is economically achievable; and (2) operationally practical.” See 46 U.S.C. 2118(a). This proposed rule addresses lifesaving equipment for Coast Guard approval that is required on vessels subject to 46 U.S.C. Subtitle II, Part B, and the Coast Guard has ensured that this proposed rule would satisfy the requirements of 46 U.S.C. 2118(a), as necessary.

N. Environment

The Coast Guard has analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969

(42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. This proposed rule involves regulations that are editorial, regulations concerning equipping of vessels, and regulations concerning vessel operation safety standards. This proposed rule is categorically excluded under Section 2.B.2, Figure 2-1, paragraphs (34)(a) and (d) of the Instruction and under paragraph 6(a) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” (67 FR 48243, July 23, 2002). The Coast Guard seeks any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

46 CFR Part 160

Marine safety, Incorporation by reference, Reporting and recordkeeping requirements.

46 CFR Part 164

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 160 and 164 as follows:

PART 160 – LIFESAVING EQUIPMENT

1. The authority citation for part 160 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; and Department of Homeland Security Delegation No. 0170.1.

Subpart 160.115 – Launching Appliances – Winches

2. In § 160.115-7, revise paragraph (b)(5)(i) to read as follows:

§ 160.115-7 Design, construction, and performance of winches.

* * * * *

(b) * * *

(5) * * *

(i) Winch drums must either be grooved or otherwise designed to wind the falls evenly on and off each drum.

* * * * *

3. In § 160.115-13, add new paragraph (d)(4) to read as follows:

§ 160.115-13 Approval instructions and tests for prototype winches.

* * * * *

(d) * * *

(4) Winch drum. Each winch designed without grooved drums must demonstrate during prototype testing that the falls wind evenly on and off each drum.

* * * * *

Subpart 160.133 [Amended]

4. Amend the title to Subpart 160.133 by removing the word “(SOLAS)”.

Subpart 160.133 – Release Mechanisms for Lifeboats and Rescue Boats

§ 160.133-3 [Amended]

5. In § 160.133-3, in the introductory text, after the words “IMO LSA Code”, add the words “, as amended by Resolution MSC.320(89)”.

6. Amend § 160.133-5 as follows:

- a. Remove paragraphs (b)(1) and (b)(5);
- b. Redesignate paragraphs (b)(2), (b)(3), (b)(4), and (b)(6) as paragraphs (b)(1), (b)(2), (b)(3), and (b)(4), respectively;
- c. In paragraph (c)(3), after the words “Revised recommendation on testing of”, remove the words “live-saving” and add, in their place, the words “life-saving”; and
- d. Add paragraphs (c)(6) and (c)(7) to read as follows:

§ 160.133-5 Incorporation by reference.

* * * * *

(c) * * *

(6) Annex 4 to MSC 89/25, Report of the Maritime Safety Committee on its Eighty-Ninth Session, “Resolution MSC.320(89), Adoption of Amendments to the International Life-Saving Appliance (LSA) Code,” (adopted May 20, 2011), IBR approved for §§ 160.133-3, 160.133-5(c)(6), 160.133-7(d)(1), 160.133-7(b)(8), and 160.133-7(b)(9) (Resolution MSC.320(89)).

(7) Annex 5 to MSC 89/25, Report of the Maritime Safety Committee on its Eighty-Ninth Session, “Resolution MSC.321(89), Adoption of Amendments to the Revised Recommendation on Testing of Life-Saving Appliances (Resolution MSC.81(70)),” (adopted May 20, 2011), IBR approved for §§ 160.133-5(c)(7), 160.133-7(a)(2), and 160.133-13(d)(2) (Resolution MSC.321(89)).

7. Amend § 160.133-7 as follows:

- a. In paragraph (a)(1), after the words “IMO LSA Code,” add the words “as amended by Resolution MSC.320(89),”;

- b. In paragraph (a)(2), after the words “IMO Revised recommendation on testing,” add the words “as amended by Resolution MSC.321(89),”;
 - c. Revise paragraph (b)(3) as set out below;
 - d. In paragraph (b)(8), after the words “required by”, add the word “IMO”, and after the words “LSA Code”, add the words “, as amended by Resolution MSC.320(89),”;
 - e. In paragraph (b)(9), after the words “required by”, add the word “IMO”, and after the words “LSA Code”, add the words “, as amended by Resolution MSC.320(89),”;
- and
- f. Remove paragraph (b)(15).

160.133-7 Design, construction, and performance of release mechanisms.

* * * * *

(b) * * *

(3) Steel. Each major structural component of each release mechanism must be constructed of corrosion-resistant steel. Corrosion-resistant steel must be a type 302 stainless steel per ASTM A 276, ASTM A 313 or ASTM A 314 (incorporated by reference, see § 160.133–5 of this subpart). Other corrosion-resistant materials may be used if accepted by the Commandant as having equivalent or superior corrosion-resistant characteristics;

* * * * *

§ 160.133-13 [Amended]

- 8. Amend § 160.133-13 as follows:
 - a. In paragraph (d)(2), after the words “tests described in IMO Revised recommendation on testing,” add the words “as amended by Resolution MSC.321(89),”

and after the words “with these paragraphs of IMO Revised recommendation on testing,” add the words “as amended by Resolution MSC.321(89),”;

b. Remove paragraph (d)(2)(iii); and

c. Redesignate paragraphs (d)(2)(iv), (d)(2)(v), and (d)(2)(vi) as paragraphs (d)(2)(iii), (d)(2)(iv), and (d)(2)(v), respectively.

§ 160.133-15 [Amended]

9. In § 160.133-15, amend paragraph (e) by removing the words, “Each approved release mechanism constructed with non-corrosion-resistant steel must be confirmed to have met the coating mass and bend tests requirement specified under ASTM A 653 (incorporated by reference, see § 160.133–5 of this subpart) after galvanizing or other anti-corrosion treatment has been applied. This compliance can be ascertained through a supplier's certification papers or through conducting actual tests.”

Subpart 160.135 [Amended]

10. Amend the title to Subpart 160.135 by removing the word “(SOLAS)”.

Subpart 160.135 – Lifeboats

§ 160.135-5 [Amended]

11. In § 160.135-5, amend paragraph (d)(4) by removing the word “and” and adding, in its place, the punctuation “,” and, after the numbers “160.135-13”, adding the words “, and 160.135-15”.

12. Amend § 160.135-15 as follows:

a. In paragraph (d), remove the word “(e)(2)” and add, in its place, the word “(e)”;

b. In paragraph (e)(1)(iv), remove the reference “§ 160.135-13(c)(2)(i)(B)” and add, in its place, the reference “§ 160.135-11(c)(2)(i)(B)”;

c. Revise paragraph (e)(2) to read as follows:

§ 160.135-15 Production inspections, tests, quality control, and conformance of lifeboats.

* * * * *

(e) * * *

(2) Post assembly tests and inspections. The finished lifeboat must be visually inspected inside and out. The manufacturer must develop and maintain a visual inspection checklist designed to ensure that all applicable requirements have been met and the lifeboat is equipped in accordance with approved plans. Each production lifeboat of each design must pass each of the tests described in the IMO Revised recommendation on testing, part 2, section 5.3 (incorporated by reference, see § 160.135-5 of this subpart).

§ 160.156-5 [Amended]

13. In § 160.156-5, amend paragraph (d)(4) by removing the word “and” and adding, in its place, the punctuation “,”, and, after the numbers “160.156-13”, adding the words “, and 160.156-15”.

§ 160.156-7 [Amended]

14. In § 160.156-7, amend paragraph (b)(13) by removing the word “lifeboat” and adding, in its place, the words “rescue boat”.

§ 160.156-9 [Amended]

15. Amend § 160.156-9 as follows:

a. In paragraph (b)(22)(iv), remove the word “lifeboat” and add, in its place, the words “rescue boat”; and

b. In paragraph (d)(2), remove the word “lifeboat” and add, in its place, the words “rescue boat”.

16. Amend § 160.156-15 as follows:

a. In paragraph (e)(1), remove the words “In accordance with the interval prescribed in paragraph (d)(1) of this section, each” and add, in their place, the word “Each”; and

b. Revise paragraph (e)(2) to read as follows:

§ 160.156-15 Production inspections, tests, quality control, and conformance of rescue boats and fast rescue boats.

* * * * *

(e) * * *

(2) Post assembly tests and inspections. The finished rescue boat must be visually inspected inside and out. The manufacturer must develop and maintain a visual inspection checklist designed to ensure that all applicable requirements have been met and the rescue boat is equipped in accordance with approved plans. Each production rescue boat of each design must pass each of the tests described in the IMO Revised recommendation on testing, part 2, section 5.3 (incorporated by reference, see § 160.156-5 of this subpart).

PART 164 – MATERIALS

17. The authority citation for part 164 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234;; 45 FR 58801;; 3 CFR, 1980 Comp., p. 277; and Department of Homeland Security Delegation No. 0170.1.

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